

LAW OFFICES
KOTEEN & NAFTALIN, L.L.P.
1150 CONNECTICUT AVENUE
WASHINGTON, D.C. 20036

BERNARD KOTEEN*
ALAN Y. NAFTALIN
ARTHUR B. GOODKIND
GEORGE Y. WHEELER
MARGOT SMILEY HUMPHREY
PETER M. CONNOLLY
M. ANNE SWANSON
CHARLES R. NAFTALIN
GREGORY C. STAPLE
R. EDWARD PRICE

* SENIOR COUNSEL

TELEPHONE
(202) 467-5700
TELECOPY
(202) 467-5915

June 13, 1997

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Federal Communications Commission
Office of Secretary

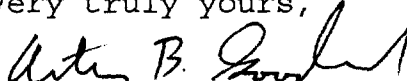
Mr. William Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Dear Mr. Caton:

Transmitted herewith, on behalf of WTKR, Inc., licensee of television station WTKR, Norfolk, Virginia, are an original and ten copies of a "Petition for Reconsideration" filed in MM Docket No. 87-268.

In the event there are any questions concerning this matter, please communicate with this office.

Very truly yours,



Arthur B. Goodkind

Enclosures

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Before the
Federal Communications Commission
Washington, D.C. 20554

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JUN 13 1997

Federal Communications Commission
Office of Secretary

In the Matter of)
)
Advanced Television Systems)
and Their Impact Upon the) MM Docket No. 87-268
Existing Television Broadcast)
Service)

To: The Commission

PETITION FOR RECONSIDERATION

WTKR, Inc., licensee of television station WTKR, Norfolk, Virginia, files herewith, by its attorneys, its petition for reconsideration of the Sixth Report and Order released April 21, 1997 in the above-captioned proceeding ("Sixth Report"). For the reasons set forth below, WTKR, Inc. requests that Channel 46 be allotted as a transitional DTV channel for use by WTKR in lieu of Channel 58, the transitional DTV channel paired with WTKR by the Sixth Report.

FACTUAL BACKGROUND

WTKR presently operates on Channel 3 and is assigned to Norfolk, Virginia, which is part of Virginia's largest television market. In the Sixth Report, the Commission has paired Channel 58 with WTKR as a transitional channel. Channel 58 is not

included in the "core" group of channels proposed to be retained for television broadcasting after the DTV transition.

Accordingly, if the low band VHF channels are not ultimately included in the core post-transition channel group, WTKR will be forced to change channels once again after the transition, which would force WTKR, Inc. to incur substantial additional expenses for transmitter and antenna replacement. Of equal and perhaps greater significance, WTKR viewers would be subject to confusion as to the station's channel location and WTKR would lose whatever channel identification it had achieved with the viewing public for both channels 3 and 58.¹

Channel *46 has been included as a non-commercial station allotment for West Point, Virginia for more than 30 years.² No

¹ Should Channel 3 be included in the post-transition core channel group, which WTKR, Inc. strongly urges, WTKR would expect to shift its DTV operation back to that channel after the transition. See Sixth Report, paragraph 84. Owing to the superior propagation characteristics of a low band VHF channel and WTKR's long term identification with Channel 3, this would be far more satisfactory than post-transition operation on either Channels 46 or 58. Because the Commission has left the future status of the low band VHF channels uncertain, however, this petition must be based on the assumption that Channel 3 may not be available for WTKR's use after the transition.

² Channel *43 was originally allotted to West Point by the Commission's Fourth Report and Order in Docket 14229, adopted June 4, 1965, 41 FCC 1082, 1109. At some point shortly thereafter, the allotment was apparently changed to Channel *46.

station has ever been constructed on the channel. Although the Sixth Report generally deleted vacant NTSC allotments in constructing the new DTV Table of Allotments, Channel *46 was not deleted from West Point. Instead, pursuant to a policy announced in paragraph 112 of the Sixth Report, which is to replace vacant noncommercial NTSC allotments with new noncommercial reserved DTV allotments "where feasible," Channel *46 was retained as a DTV allotment for West Point. This means that the Channel may not be used for a new NTSC station, but may only be used for a new "stand-alone" DTV operation.

IF CHANNEL 3 IS NOT RETAINED IN THE CORE CHANNEL
GROUP, CHANNEL 46 SHOULD BE DELETED AT WEST POINT
AND MADE AVAILABLE TO WTKR FOR DTV USE.

As shown by the Engineering Statement of Bernard R. Segal, P.E., attached hereto, Channel 46 may be moved from West Point Virginia to Norfolk consistent with the principles underlying the DTV allotment table. The interference-free service area provided by a Channel 46 DTV station would be substantially identical to the interference-free service area of a Channel 58 DTV station operating with the same antenna height and effective radiated

See the reference to the West Point Channel *46 allotment in the Report and Order in Docket 17184, 10 FCC 2d 619 (1967).

power. Similarly, the interference that would be caused to other stations would be essentially de minimis on either channel.

Under those circumstances and for the reasons set forth below, the public interest would be served by making the proposed channel change.

(1) Deletion of Channel *46 from West Point would have no adverse effect on the public interest. West Point is a community with a population of fewer than 3000 persons located in a county of less than 12,500 population in the southern portion of the Richmond television market. Richmond has two operating non-commercial television stations, WCVF and WCVW-TV, each of which is reported as being carried on the West Point cable system in the current edition of Television and Cable Factbook.³

The likelihood that any station will be constructed on Channel 46 at West Point prior to the end of the DTV transition is extremely remote. The West Point noncommercial allotment has remained unused for thirty-two years. No applications are pending for its use. Under the terms of the Sixth Report, no NTSC station may be constructed on the channel, its future use

³ Television and Cable Factbook No. 65, 1997 edition, Services Volume, at D-1786. A third noncommercial station, WHRO-TV, Hampton-Norfolk, is also reported as carried on the system.

being limited to DTV broadcasting only. Since there are unlikely to be any appreciable number of sets in the West Point area capable of receiving DTV signals until very late in the DTV transition process, and because Channel 46 would not be used as a transition channel for any existing station, there is clearly no incentive for any noncommercial broadcast organization to construct a new "stand-alone" DTV station on the channel until after the DTV transition has been completed. At that point, half of all television channels in use during the transition will be relinquished. Even allowing for the repacking of television channels into the core channel range, there will clearly be many more channels available for assignment at the end of the transition should there be a demand to replace Channel *46 at West Point. See Sixth Report, paragraph 207.

(2) On the other hand, use of Channel 46 as a channel paired with WTKR would produce substantial benefits. If Channel 3 is not retained in the core group and if WTKR cannot return to that Channel, use of Channel 46 will permit the public to continue to view WTKR's digital broadcasts on a channel with which the station will have become identified during the transition. WTKR, Inc. will be able to avoid the very substantial expense and

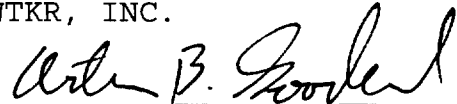
inconvenience of a double channel shift and a move to a totally different channel after the transition.⁴

CONCLUSION

The public interest would be served by changing the DTV transition channel paired with WTKR from Channel 58 to Channel 46. The Commission should therefore make that change, deleting the vacant Channel *46 allotment from West Point.

Respectfully submitted,

WTKR, INC.



Arthur B. Goodkind

Koteen & Naftalin, L.L.P.
1150 Connecticut Avenue, N.W.
Suite 1000
Washington, D.C. 20036

Its Attorneys

June 13, 1997

⁴ Even if the Commission should require reimbursement of "double-shift" stations by other users of frequencies being relinquished by such stations, there will still be an additional expense to be borne by some entity in the case of each such double shift.

Bernard R. Segal, P.E.
Consulting Engineer
Washington, DC

**ENGINEERING STATEMENT
WTKR, INC.
NORFOLK, VIRGINIA**

This engineering statement has been prepared on behalf of WTKR, Inc., licensee of television station WTKR, Norfolk, Virginia. This statement supports a petition for reconsideration of the FCC's *Sixth Report and Order* in MM Docket No. 87-268 relating to the matter of Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service. Specifically, WTKR, Inc. seeks the allotment of DTV channel 46 for transitional use in lieu of the FCC's allotment of channel 58.

WTKR's current NTSC operation is on channel 3 with peak visual effective radiated power 100 kW and antenna radiation center height above average terrain of 299 meters. The paired DTV allotment for WTKR in the FCC's *Sixth Report and Order* in the referenced proceeding is for the use of channel 58 with effective radiated power of 1,000 kW and antenna radiation center height above average terrain of 299 meters.

Since channel 58 is out of the core spectrum which will range from channel 7 through channel 51, or possibly, from channel 2 through channel 46, WTKR, Inc. seeks an alternate to channel 58 that will lie within the core spectrum irrespective of which particular channels will ultimately constitute the core spectrum. By that means the wastefulness and attendant disruptions associated with a second DTV facility construction might be avoided.

Bernard R. Segal, P.E.
Consulting Engineer
Washington, DC

Engineering Statement
WTKR, Inc., Norfolk, Virginia

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The FCC's adopted Digital Television Table of Allotments, Section 73.622, includes channel 46 for use at West Point, Virginia. Appendix B, Table 2, entitled, DTV Allotments with Reference Coordinates, in the *Sixth Report and Order*, gives the coordinates 37° 31' 54" N, 76° 47' 49" W for the West Point allotment. However, there is no paired existing NTSC station for West Point in Appendix B, Table 1. A search of the FCC database does not reveal even a pending application for West Point which currently has an NTSC channel 46 noncommercial channel allotment. Clearly, West Point is not eligible for an initial DTV paired allotment under the FCC's announced criteria.

Channel 46 has been determined to be an alternate satisfactory substitute for channel 58 at the WTKR site when channel 46 is deleted from the Table of DTV Allotments at West Point. WTKR is approximately 84 kilometers from the West Point reference. On channel 46, with replication power of 1,000 kW, the same interference-free service within the predicted Grade B contour would result for WTKR as for channel 58 based on calculations made using the Institute for Telecommunications Sciences (ITS) implementation of the Irregular Terrain Method (Longley-Rice) predictions as used by the FCC in its preparation of the Appendix B, Table 1, in the *Sixth Report and Order*. Figure 1 is a map showing the DTV replication study for channel 46, and Figure 2 shows the similar study for channel 58. The populations and areas receiving interference-free service on channel 46 are the same as for channel 58.

Bernard R. Segal, P.E.
Consulting Engineer
Washington, DC

Engineering Statement
WTKR, Inc., Norfolk, Virginia

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The calculations were performed by Telecommunications Analysis Services (TAS), a branch of the ITS. ITS, in turn, is part of the US Department of Commerce.

From the studies performed by TAS, it has been determined that the proposed channel 46 allotment for WTKR DTV operation would cause new interference to WBFF, Baltimore, Maryland, DTV, channel 46, to the extent of 6 square kilometers. Table 1 in Appendix B of the *Sixth Report and Order* indicates that the WBFF DTV channel 46 allotment would provide service within the station's NTSC channel 45 Grade B contour to 18,813 square kilometers. The DTV/NTSC area match is given as 99.7 percent. It is clear from the foregoing that the 6 square kilometers of projected new interference area from WTKR, representing 0.03 percent of the WBFF DTV service area, can have no significant impact on the WBFF channel 46 replication.

Similarly, the TAS calculation indicates that WWAY, Wilmington, North Carolina, DTV, channel 46, will receive new interference from the proposed WTKR DTV, channel 46, to the extent of 30 square kilometers containing no population. For WWAY, Table 1 in Appendix B in the *Sixth Report and Order* shows that the digital television service during the transition will be within an area of 51,390 square kilometers and that the DTV/NTSC area match is 100 percent. The projected interference of 30 square kilometers from WTKR DTV, channel 46, which represents 0.06 percent of the WWAY DTV service area, can have no significant impact on the replication match for WWAY.

Bernard R. Segal, P.E.
Consulting Engineer
Washington, DC

Engineering Statement
WTKR, Inc., Norfolk, Virginia

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For comparison purposes, a study was conducted to determine what interference, if any, the channel 58, DTV allotment at Norfolk would cause within the Grade B contours of other stations. That study revealed interference to the extent of 3.1 square kilometers to WCVW, Richmond, Virginia, NTSC, channel 57, and 3.2 square kilometers to WGAL, Lancaster, Pennsylvania, DTV, channel 58.

The WCVW NTSC interference-free Grade B contour area is 13,872 square kilometers. The 3.1-square kilometer interference area from WTKR, DTV, channel 58 represents 0.02 percent of the WCVW 13,872-square kilometer interference-free Grade B area.

The WGAL, DTV, channel 58, service area within the Grade B contour is 23,977 square kilometers. The 3.2-square kilometer interference area from WTKR, DTV, channel 58 represents 0.01 percent of the 23,977-square kilometer DTV interference-free area within the Grade B contour.

The foregoing demonstrates that the FCC's channel 58 DTV allotment and the herein proposed channel 46 DTV substitution impact similarly on other stations, i.e., to only a minor extent.

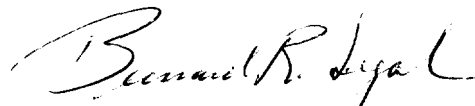
Based on the foregoing, a DTV channel 46 substitute DTV allotment for DTV channel 58 for WTKR fulfills all FCC criteria. Taking into account the potential for elimination of the cost of construction of a new facility, and the prospect for avoidance of the disruption of viewing patterns to the public which

Bernard R. Segal, P.E.
Consulting Engineer
Washington, DC

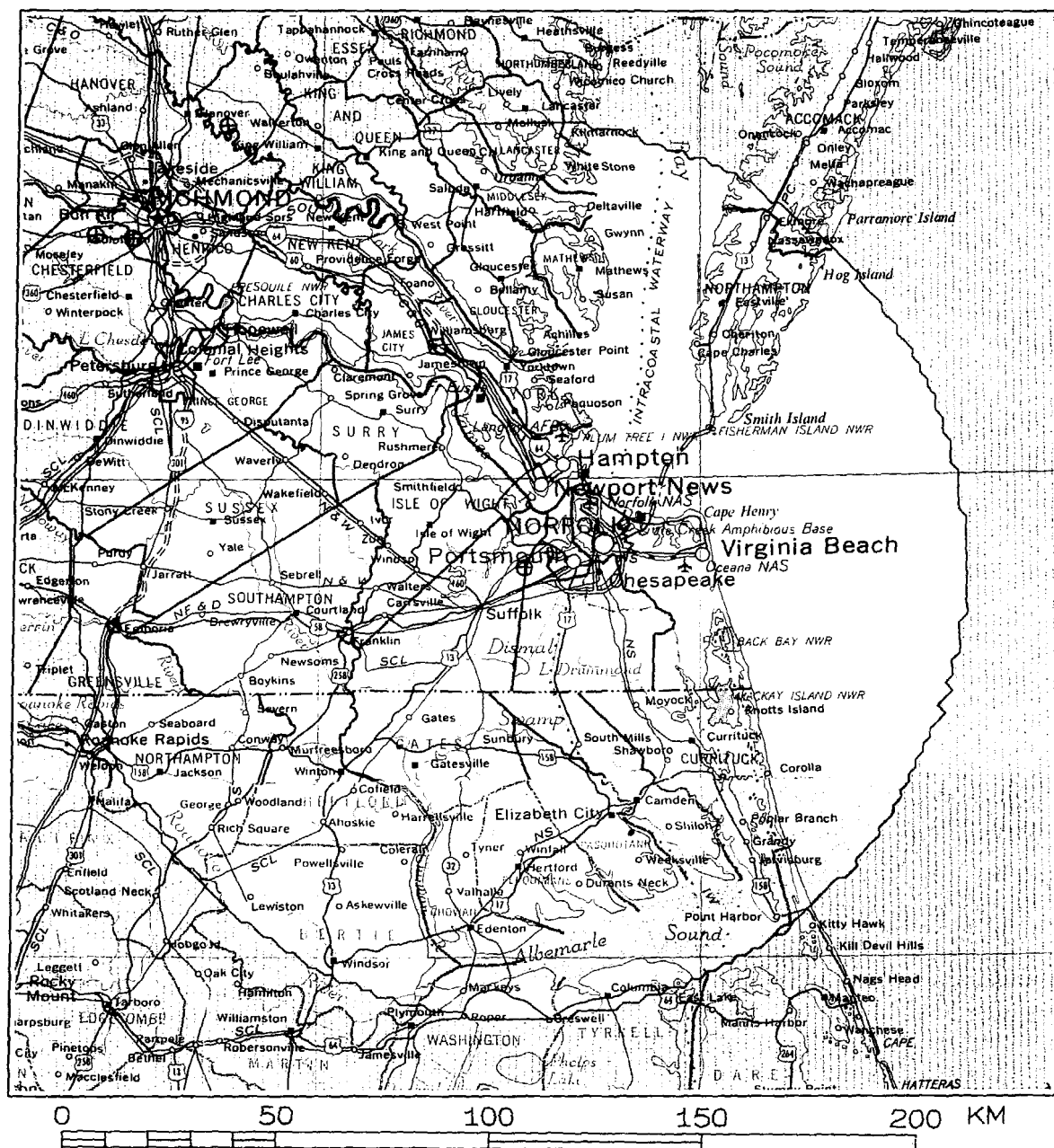
Engineering Statement
WTKR, Inc., Norfolk, Virginia

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would occur with a switch in channels when channel 58 ultimately is deleted from the television band, the channel 46 substitution is believed warranted.


Bernard R. Segal, P.E.

June 10, 1997



DTV REPLICATION STUDY*

WTKR, NORFOLK, VIRGINIA

CH 46 1000 KW 299 METERS

Prepared for
WTKR, INC.

Bernard R. Segal, P.E. Consulting Engineer

Signal to Interference ratio

□ No Interference
Area: 33930. sq km
Population: 1751000.
Households: 633000.

■ HDTV Interference
Area: 0. sq km
Population: 0.
Households: 0.

■ NTSC Interference
Area: 0. sq km
Population: 0.
Households: 0.

■ Signal below minimum

* Computation based on ITS Irregular Terrain Model for 50% confidence factor with results clipped at the limit of the predicted Grade B contour.

Figure 1

DTV REPLICATION STUDY*

WTKR, NORFOLK, VIRGINIA

CH 58 1000 KW 299 METERS

Prepared for

WTKR, INC.

Bernard R. Segal, P.E. Consulting Engineer

Signal to Interference ratio

□ No Interference
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■ HDTV Interference
Area: 0. sq km
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■ NTSC Interference
Area: 0. sq km
Population: 0.
Households: 0.

■ Signal below minimum

* Computation based on ITS Irregular Terrain Model for 50% confidence factor with results clipped at the limit of the predicted Grade B contour.

Figure 2

